IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

Bail Appl..No. 4045 of 2007(A)

(CRIME NO. 413/2007 of KASARAGOD POLICE STAION)

PETITIONER/ACCUSED

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1. SUMDARA POOJARY AGE 38,
   S/O.BABU POOJARY, GUTHU HOUSE,
   ADKATHBAIL, KASARAGOD.

2. RAVIRAJ POOJARY, AGED 28,
   S/O.NARAYANA POOJARY, GUTHU HOUSE,
   ADKATHBAIL, KASARAGOD.

BY ADV. SRI.T.B.SHAJIMON

RESPONDENTS: COMPLAINANT

STATE OF KERALA REP BY INSPECTOR OF
POLICE, KASARAGOD POLICE STATION, REP.BY
THE PUBLIC PROSECUTOR, ERNAKULAM.

BY ADV. SRI. P.N. SUKUMARAN, PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05/07/2007, ALONG WITH B.A. NOS. 4061/07 & 4064/07, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.Nos.4045, 4061 & 4064 of 2007

Dated this the 5th day of July, 2007

ORDER

Applications for anticipatory bail. The petitioners have been arrayed as accused in three crimes. Allegations are raised under Sections 406 and 409 I.P.C. The crux of the allegations against the petitioners is that they in furtherance of their common intention with the other accused had dishonestly induced gullible members of the community to join a chit with no serious intention of returning the money to them. It is alleged that the chit was closed all on a sudden one day and thereafter the chitty company was not opened and no arrangements were made to return the money to the subscribers. Different crimes have been registered on the basis of complaints filed by the subscribers, who have allegedly been deceived. The same have been referred to the police by the learned Magistrate under Section 156(3) Cr.P.C. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are innocent employees employed by the foreman of the chit and by no stretch of imagination, they can be mulcted with culpable liability for the alleged offence committed by the principal offender. The learned Public Prosecutor on the contrary submits that

the materials suggest and indicate that the petitioners had crucial roles to play in the fraudulent game of those who ran the chit. It is impossible at this stage to come to a conclusion that the petitioners had no contumacious responsibility. At any rate, at this stage and with the available inputs, this cannot be held to be a fit case to invoke the extraordinary equitable jurisdiction under Section 438 Cr.P.C, submits the learned Public Prosecutor.

3. Having considered all the relevant inputs, I am satisfied that there is merit in the opposition by the learned Public Prosecutor. This I am satisfied is a fit case where the petitioners must appear before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary and normal course. I have no reason to assume that their applications for regular bail will not be considered by the learned Magistrate on merits, in accordance with law and expeditiously.

4. In the result, these bail applications are, dismissed. Needles to say, if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-